FREQUENTLY ASKED QUESTIONS

HEALTH STANDARDS AND QUALITY ISSUES

A. Clinical Laboratory Improvement Amendment (CLIA)

A-1. What should newly established laboratories that are providing emergency services (e.g., FEMA laboratories) and laboratories that are re-locating to continue existing services, do to obtain or retain CLIA certification?

All entities should work with the appropriate State agency, if available, or the Centers for Medicare & Medicaid Services (CMS) regional office CLIA personnel.

Newly established laboratories are approved to begin emergency testing as soon as they have completed the CLIA application and transmitted it to the aforementioned agencies. The application is available on the CMS CLIA website at: www.cms.hhs.gov/clia. Contact information for the State agencies and CMS regional offices can also be found there. The application can be faxed, or mailed. For FEMA laboratories and other laboratories providing emergency services, the number of certificates required is discretionary.

Existing laboratories that are re-locating just need to notify their State agency or CMS regional office regarding their new or temporary location. (9/8/2005)

A-2. When will laboratory surveys be done?

Surveys for both new and existing laboratories will be done as soon as resources and time permit. CMS will work with its regional offices and State survey agencies to provide assistance to assure quality as needed. (9/8/2005)

B. Critical Access Hospitals (CAHs)

B-1. Will critical access hospitals in affected states remain subject to the 25-bed and 96-hour rule?

Due to emergency needs in states directly affected by Hurricane Katrina, and the needs of neighboring states, affected hospitals providing assistance to evacuees should do whatever is necessary to assure the safety and health of their patients and any patients that may need to seek care at their facilities. Critical access hospitals (CAHs) that exceed the 25-bed rule and 96-hour stays will not risk their CAH certification in responding to these emergency conditions during the time period of the Secretary's 1135(b) waiver. (9/8/2005)

C. Drug Contamination

C-1. How can health care facilities determine the appropriate use of contaminated and temperature sensitive drugs?

For information regarding the use of potentially contaminated and temperature sensitive drugs, please access the FDA's web site at www.fda.gov/cder/emergency. For questions about specific drug products, call the FDA general number: 1-888-INFO-FDA. (9/8/2005)

D. Emergency Evacuations

D-1. What is CMS' policy to Medicare contractors regarding evacuations?

Medicare policy provides contractors with leeway to determine Medicare reimbursement for services provided under unusual circumstances. While CMS recognizes it is in the patients' best interest to be evacuated as soon as possible during an emergency, contractors have the responsibility to determine if Medicare expenditures should be made for the evacuation.

In most cases, mass emergency evacuations billed to Part B are for nursing home patients from ambulance suppliers. Nursing homes are required to have an emergency evacuation plan as a condition of participation. Many will have insurance to cover these situations. If the facility has insurance that will cover the evacuations, Medicare is the secondary payer. If not, contractors should consider the following points prior to making payment:

- Medicare's medical necessity requirements apply in all cases;
- Payment may be made only if the patient was transported to an approved destination; and,
- Multiple patient transport payment provisions apply in all cases

Due to the unusual nature of the services provided during emergency situations, contractors should evaluate circumstances and make coverage

decisions based on the facts for individual situations. Contractors may have to vary coverage determinations based on a patients' individual situation. (9/1/2005)

E. Enforcement Activities

E-1. Will the Louisiana Department of Health and Hospitals survey activities be changed?

The Louisiana Department of Health and Hospitals (DHH) surveyors are currently staffing the Special Needs Shelters throughout the state. As a result, survey activity in the state has been suspended for at least two weeks. In light of this situation, the Dallas Regional Office has directed LTC and Non-LTC staff (including CLIA) to hold any pending enforcement or termination actions against Louisiana facilities until the state is able to conduct surveys again.

Each pending action will be reviewed on a case-by-case basis to determine if there is something we need to do in the interim. The LTC branch is also reviewing currently imposed denial of payment for new admissions (DPNAs) to determine the effect they may have on facilities that have taken in additional patients from other homes. We will advise you once enforcement activities are able to be resumed. (9/8/2005)

E-2. I have a pending termination case and the Louisiana State Survey Agency can't review my plan of correction (PoC). What should I do? Who do I send it to?

All enforcement actions within Louisiana are on hold pending further notification. Once enforcement activities can be resumed, you will be notified. (9/8/2005)

E-3. What about other states affected by Hurricane Katrina? Will their survey activities also change?

The Mississippi state survey agency has provided notice that all surveying activity had been put on hold for the weeks of 8/29/05 and 9/5/05, due to the devastation of Hurricane Katrina throughout the state. Revisits previously scheduled have been cancelled.

For other states affected by Hurricane Katrina, please see the web sites listed below for more information:

- TEXAS - Hurricane Katrina Information and Resources http://www.dshs.state.tx.us/dshstoday/katrina.shtm
- ARKANSAS - Katrina Assistance Relief Effort http://www.kare.arkansas.gov/

- MISSISSIPPI - “After The Storm Essential Health and Safety Notices” http://www.msdh.state.ms.us/index.htm (9/8/2005)

E-4. What happens when a nursing home facility (either an evacuated facility or one that has accepted evacuees) is on an enforcement track and its operations have been disturbed by the hurricane or hurricane activity? For example, a denial of payment for new admissions sanction may be in effect for the “accepting” facility.

DPNAs and termination actions will be deferred during the effective period of the section 1135(b) waiver for facilities evacuated and for facilities accepting evacuated nursing home residents. To access the Secretary’s 1135(b) waiver, see the following web site: http://www.hhs.gov/emergency/emergency.html. (9/9/2005)

E-5. How should the collection and accrual of civil money penalties be handled for affected facilities?

Regional offices have discretion in this regard after considering the specifics of any given situation. Facilities are facing different challenges and CMS will take those differences into account, such as the following:

(a) For facilities directly impacted by Hurricane Katrina, civil money penalties generally will not be collected, and accrual of penalty amounts will temporarily cease, during the effective period of the section 1135(b) waiver.
(b) For all facilities accepting evacuees, regional offices will handle CMP issues on a case-by-case basis.
(c) For other facilities that may be affected by the inability of the survey agency to conduct revisit surveys, contact your regional office for a case-by-case determination. (9/9/2005)

E-6. Is a plan of correction still required from affected facilities that would otherwise have needed to submit one?

States and the CMS regional office will address this question on a case by case basis since the answer depends on the extent to which the nursing home is affected. For seriously affected facilities, a plan of correction will generally be deferred in the public health emergency areas during the effective period of the section 1135(b) waiver. (9/9/2005)

F. End Stage Renal Disease (ESRD)

F-1. In an emergency environment, how might capable providers who are not currently certified to provide ESRD outpatient services, become certified to receive Medicare reimbursement for delivered dialysis services?

The Medicare program has a special classification for facilities that provide dialysis treatment services during emergencies. This classification is entitled "special purpose dialysis facilities." The certification for a "special purpose dialysis facility" may last for up to 8 months. A special purpose dialysis facility may provide services only to those patients who would otherwise be unable to obtain treatments in the geographical areas served by the facility. A special purpose dialysis facility should consult with a patient's physician to assure that care provided in the special purpose dialysis facility is consistent with the patient's care plan.

Certification for a special purpose dialysis facility can be immediate. For this certification, a provider should contact either the State agency where the facility would be located, or the Dallas Regional Office (214-767-3350 or 214-767-2082). The State Agency contact numbers for ESRD-specific issues are as follows:

- AL: 877-209-7928
- FL: 850-414-0338
- LA: 225-763-5770
- MS: 601-576-8225
- TX: 800-222-3986

(9/8/2005)

F-2. The CDC states that dialysis centers that are operating in the area need to pay special attention to water treatment and especially carbon tank maintenance because of the assumption that extra chlorine may be dumped into the water system by water treatment plants. More frequent disinfection of the water treatment and dialysis equipment may be needed. Is additional information available about special precautions?

The CDC and FDA have set up websites about infection control and water treatment issues and medical devices for hurricane disasters. The CDC has provided multiple sets of guidelines, available at http://www.bt.cdc.gov/disasters/hurricanes/index.asp. These include guidelines of particular interest to health-care providers, relief workers, and shelter operators. *Hurricane-Related Information for Health-Care Professionals* (http://www.bt.cdc.gov/disasters/hurricanes/hcp.asp) includes guidelines for managing acute diarrhea and guidance related to immunizations and vaccine storage. *Worker Safety During Hurricane Cleanup* (http://www.bt.cdc.gov/disasters/hurricanes/workers.asp) includes health recommendations for relief workers and guidance on worker safety during a power outage. *Hurricane Katrina Information for Shelters* (http://www.bt.cdc.gov/disasters/hurricanes/katrina/shelters.asp) includes guidance on infection control for community shelters and key facts regarding infectious diseases. In addition, a new compilation, Natural Disasters, has

been added to the *M Guide Online Knowledge Centers* at the *MMWR* website (http://www.cdc.gov/mmwr). The *M Guide* provides Internet links to previously published *MMWR* reports regarding assessment of health needs and surveillance of morbidity and mortality after hurricanes, floods, and the December 26, 2004 tsunami.

The FDA website at www.fda.gov/cdrh/emergency/hurricane.html covers general safety, power outage (warning about potential carbon monoxide problems when using generators), water contamination, sterility, reuse, heat and humidity (information about using blood glucose meters), and treating snakebites. The FDA has a main site for health and safety after Katrina at http://www.fda.gov/oc/opacom/hottopics/hurricane.html. (9/8/2005)

F-3. How will recertification be handled for those Medicare-certified dialysis facilities with End-Stage Renal Disease (ESRD) provider numbers that have had to close due to damage?

Medicare-certified dialysis facilities with ESRD provider numbers that need to rebuild or relocate following the hurricane, should notify either the State Agency or the Regional Office of their intention. Once the dialysis facility is operational and in compliance with Medicare's health and safety requirements, the facility may resume billing under their current Medicare ESRD provider number. Relocated and rebuilt ESRD facilities will be surveyed to assure compliance with basic health and safety requirements when recovery efforts and resources at the State level permit. (9/9/2005)

F-4. What considerations need to be taken into account when restoring a dialysis facility to operational status in the recovery phase following Hurricane Katrina?

The CDC, FDA, and AAMI are working with specialty organizations and individuals to prepare information for dialysis facilities that are reopening following the hurricane. To date, these are the recommendations:

- If the facility was flooded, please see the CDC guidelines for recovery of a flooded building at http://www.bt.cdc.gov/disasters/floods/.

- If the building has not been flooded follow the instructions below after restoring utilities, assuring that the physical facility is operational, and assuring that adequate water flow and pressure is available. Remember that source water may be subject to a “boil water alert.”

A. Water Treatment System

- Flush all pretreatment equipment to drain for at least 30 minutes to remove the stagnate water from the system.

- Test the level of free chlorine and chloramine in your source water (expect it to be higher than normal).
- Test chlorine and chloramine after the primary carbon tank to verify that the water is less than 0.5ppm free chlorine, and less than 0.1ppm chloramine.
- If chlorine and chloramine are below these levels, turn on the Reverse Osmosis (RO) machine.
- Flush the distribution system (to drain if possible).
- Disinfect the RO and the distribution system and rinse.
- Compare your product water quality readings to your historical data. A significant difference could mean that your RO membranes are damaged, or the quality of the incoming water has drastically decreased. (see note below) If the TDS is greater than 10 ppm you may need to use deionization (DI) tanks as a polisher on the product water, with an ultrafilter to minimize microbial contamination.
- Plan on re-bedding your carbon tanks as soon as possible.
- Increase your frequency of monitoring:
- Check chlorine/chloramine hourly
- Verify hourly that your product water quality is acceptable.
- Monitor water cultures and endotoxin at least weekly. If you have the capability to test for endotoxin on site, test daily.
    - Draw representative water cultures and endotoxin tests as soon as possible. If you have the capability of testing for endotoxin on site, do this before you run patients; report the results to your Medical Director.
    - Send a sample of product water for an AAMI analysis as soon as is practical.
    - Clean the RO membranes as soon as is practical.

B. Dialysis Machines

- Chemically disinfect the dialysis machines.
- Bring up the conductivity and “self test” the machines to verify proper working condition.

- Special Considerations:

A. If the product water Total Disolved Soluables (TDS) is high and the percent rejection is in line with historical performance, then the Reverse Osmosis (RO) membranes are most likely good, but the feed water may have a higher than usual level of contaminants. Deionization (DI) polishing will help cope with the extra burden in the feed water.

B. If the product water TDS is high and the percent rejection is lower than historical values, then the RO membranes are probably bad and should be replaced promptly. DI polishing may or may not be needed once the RO membranes are replaced

- Resources:
  Guidelines for Dialysis Care Providers on Boil Water Advisories
  http://www.cdc.gov/ncidod/hip/dialysis/boilwater_advisory.htm

  Water Related Emergencies
  http://www.bt.cdc.gov/disasters/watersystemrepair.asp

  Tips about Medical Devices and Hurricane Disasters
  http://www.fda.gov/cdrh/emergency/hurricane.html

  Medical Devices that Have Been Exposed to Heat and Humidity
  http://www.fda.gov/cdrh/emergency/heathumidity.html

  Medical Devices Requiring Refrigeration
  http://www.fda.gov/cdrh/emergency/refrigeration.html

  Fact Sheet: Flood Cleanup - Avoiding Indoor Air Quality Problems
  http://www.epa.gov/iaq/pubs/flood.html

  NIOSH Hurricane Katrina Response: Storm and Flood Cleanup
  http://www.cdc.gov/niosh/topics/flood/

  OSHA Fact Sheet
  http://www.osha.gov/OshDoc/data_Hurricane_Facts/Bulletin3.pdf

  American Institute of Architects: Procedures for Cleaning Out a House or Building Following a Flood
  http://www.aia.org/liv_disaster_floodproc

(9/9/2005)

G. Home Health Agencies

G-1. Under the State licensure authority, there have been waivers given to receiving facilities concerning the procedures for admitting persons displaced by the storm. What adjustments to Medicare requirements can be made for the completion of the assessment process?

As indicated in the recent Survey and Cert Memo 05-43, and in the time period indicated in the statutory waiver invoked by Secretary Mike Leavitt under section 1135(b) of the Social Security Act, CMS may modify certain timeframe and completion requirements for OASIS. In this emergency situation, an abbreviated assessment can be completed to assure the patient is receiving proper treatment and facilitate appropriate payment.

For those Medicare approved HHAs serving qualified home health patients in the public health emergency areas determined by the Secretary, the following modifications to the comprehensive assessment regulation at 42CFR 484.55

may be made. These minimal requirements will support reimbursement when billing is resumed and help assure appropriate care is provided.

- The Start of Care assessment (RFA 1) may be abbreviated to include the Patient Tracking Sheet and the 24 payment items.
- The Resumption of Care assessment (RFA 3) and the Recertification assessment (RFA 4) may be abbreviated to the 24 payment items.
- The Discharge assessment (RFA 8 or RFA 9) and the Transfer assessment (RFA 6, RFA 7) are suspended during the waiver period.

HHAs should maintain adequate documentation to support provision of care and payment. (9/9/2005)

G-2. Are HHAs permitted to do abbreviated OASIS data collection at start of care, i.e. limit collection to the 25 OASIS items required for billing (as long as they use some tool to assess patients clinical status)?

Yes. For HHAs in the public health emergency areas that serve evacuees, the Start of Care assessment (RFA 1) may be abbreviated to include the Patient Tracking Sheet and the 24 payment items. HHAs should maintain adequate documentation to support provision of care and payment. (9/9/2005)

G-3. Must HHAs comply with the 5-day OASIS completion window? Must they comply with the 7-day lock date? Must they transmit data within the required time frame?

HHAs that are operating under the time limited statutory waiver in the affected disaster areas may complete an abbreviated assessment to the extent necessary. This abbreviated assessment does not have to meet the 5 day completion date or the 7 day lock date. In addition, the OASIS transmission requirements at 42 CFR 484.20 are suspended for those Medicare approved HHAs that are serving qualified home health patients in the affected areas.

HHAs are expected to use this policy only as needed, and to return to business as usual as soon as possible. (9/9/2005)

G-4. May HHAs omit transfer and resumption of care assessments?

The Resumption of Care assessment (RFA 3) and the Recertification assessment (RFA 4) may be abbreviated to the 24 payment items as discussed above.

The Discharge assessment (RFA 8 or RFA 9) and the Transfer assessment (RFA 6, RFA 7) are suspended during the waiver period. (9/9/2005)

G-5. Several of my home health agency and community mental health center (CMHC) physical locations have been destroyed by Hurricane Katrina.

May I relocate and continue furnishing services?

Contact your Regional Office. Requests will be reviewed on a case-by-case basis, and limited exceptions to the physical location requirements may be allowed. In addition, please refer to your State's specific licensure and certification requirements. For example, Louisiana Gov. Kathleen Blanco has declared a public health state of emergency and has temporarily waived certain licensure requirements.

If you will not operate in your original location for several months (approximately four months after the disaster) CMS will revisit the situation and determine if voluntary decertification is best. We have explained that the original certification was for services to a designated service area and may not be used to expand or relocate services, but is for temporary emergency service delivery. (9/9/2005)

H. Hospitals

H-1. Can a bed in a psychiatric unit be used for acute care patients admitted during a disaster?

Yes, beds in a psychiatric unit can be used for acute care; however, it should be fully documented in hospital records. In addition, the acute portion of the hospital should bill for all Medicare-covered services; the psychiatric unit should record the services/charges as non-Medicare. (9/1/2005) (Cross Reference: Medicare-Fee-for-Service, Q1)

H-2. Could the state certify a hospital to provide Nursing Facility Services?

A hospital could apply for certification of portions of its facility at a Nursing Facility. (9/1/2005) (Cross Reference: Medicaid Issues, Q3)

H-3. Would it be considered an EMTALA violation if the hospital did not have any medical records available because of the disaster?

CMS would take a liberal view of the situation due to the crisis. However, as in physician attestations, the new record would have to reflect the lack of prior documentation. (9/1/2005)

H-4. We are a rehab hospital and have a question regarding CMS 13 and the 50% rule. If we accept patients and "tip" our 50% rule, will this compliance rule be waived during the Katrina relief effort?

First, the State and CMS need to determine that the need for acute care beds was greater than the available supply of certified acute care beds. Second, the rehab hospital provider would need to be able to safely furnish acute care in the rehab hospital. Third, the rehab hospital would need to realize that they could only admit patients for a very short period of time - as soon as true

acute care beds became available and the patient was stable enough to transfer they would need to transfer the acute care patient to an acute care hospital. If all of the above was done and there was documentation to support each step, then CMS could waive the compliance threshold requirement for the short period during the emergency. (9/9/2005

H-5. Can we convert exempt beds to acute beds if a shortage of acute beds occurs due to victims of the hurricane? In the past, such requests were handled on a case by case basis. We sent our request to the State Survey Agency for conversion. The SA determined the extent of bed shortage in the applicable community and forwarded a recommendation to the CMS. Should the need arise, is this still appropriate?

Yes. Each request to convert exempt beds to acute care beds in the event that they are needed by the hurricane victims will need to be handled on a case by case basis. You are also correct that the State's input in reviewing the provider's request and determining whether or not there really is a need for the proposed beds is critical to helping ensure that beneficiaries receive the high quality care they need.

It is important that the provider realize that any change in bed type would be approved only if there was an established need for the care to be provided, if the care can be provided safely and only for a very short period of time. Basically the change in bed type would only be approved for a brief emergency situation. Beneficiaries must be transferred to the appropriate provider type as soon as their condition permits. (9/9/2005)

I. Nursing Homes

I-1. Several nursing homes have sustained moderate to severe damage. Early physical plant assessments indicate re-occupancy may be delayed one week to several months. What are the particulars of assigning voluntary decertification status to those facilities?

Facilities will be reviewed on a one-on-one basis. If the facility will not be back in business for several months (approximately four months after the disaster), CMS may ask for their voluntary decertification and will be flexible about bringing them back into the program. (9/1/2005)

I-2. My family member has been evacuated from a Louisiana nursing home. How can I found out the nursing home where she has been relocated?

There are several resources that have been established to assist family members to find their loved ones, including:

- The Red Cross is compiling a registry for assisting families in finding their loved ones. We will encourage nursing homes to register individuals who were transferred to their facility due to Hurricane

Katrina. The Red Cross registry web address is: http://www.familylinks.icrc.org/katrina/locate.

- The New Orleans Times-Picayune has created a web-based database for missing persons, and is another helpful resource for families. The Times-Picayune's web site is: www.nola.com.

- Louisiana Department of Health and Hospitals has established a hotline for finding missing loved ones. To access this hotline, call **1-866-GET-INFO (438-4636)** or **1-877-LOVED 1S (568-3317)**

CMS is also in the process of compiling a list of nursing home evacuees affected by Hurricane Katrina. We are looking into the easiest method to disseminate useful information while protecting the privacy of nursing home residents. More information will be forthcoming on this issue. (9/8/2005)

I-3. Many Hurricane Katrina victims in nursing homes were evacuated to other nursing homes without their medical history. The national Minimum Data Set (MDS) is the only source of medical record information for many of these residents. What can nursing homes that have accepted residents do to obtain information available on the residents' MDS record to assure appropriate care of those residents? In some cases the States affected by the hurricane are unable to provide this information on an "as requested" basis.

CMS has compiled a list of all nursing homes that were evacuated, and has compiled a file of critical clinical information from the MDS records of the residents in those nursing homes in an Excel spreadsheet. Any nursing home that has received evacuees may request access to this file(s).

To receive this information, the receiving nursing home should contact the IFMC Help Desk at 1-888-477-7876. When the request is received, IFMC will place the file in the receiving nursing home's shared MDS folder. The report will stay in the receiving nursing home's file for about 30 days. (9/8/2005)

I-4. What are the requirements for filling out an MDS assessment?

See Question I-3 for modified instructions for assessing evacuated nursing home residents. These requirements are also addressed in the Resident Assessment Instrument (RAI) manual. Please note paragraph 2 for the transfer of residents secondary to disasters.

TRANSFERS OF RESIDENTS
Any time a resident is admitted to a new facility (regardless of whether or not it is a transfer within the same chain), a new comprehensive assessment must be done within 14 days. When transferring a resident, the transferring facility must provide the new facility with necessary medical records, including appropriate MDS assessments, to support the continuity of resident care.

However, when the second facility admits the resident, the MDS schedule starts from the beginning with an Admission assessment, and if applicable, a 5-Day Medicare assessment. The admitting facility should of course look at the previous facility's assessment (in the same way they would review other incoming documentation about the resident) for the purpose of understanding the resident's history and promoting continuity of care. The admitting facility must perform a new assessment for the purpose of planning care within the facility to which the resident has been transferred. The only situation in which it would not make clinical sense to redo an assessment is when a "transfer" has occurred only on paper--that is, the name and provider number of a facility has changed, but the resident remains in the same physical setting under the care of the same staff. States may have other requirements from a payment perspective. Therefore, facilities should contact their survey agency as well for clarification.

When there has been a transfer of residents secondary to disasters (flood, earthquake, fire) with an anticipated return to the facility, the evacuating facility should contact their Regional Office, State agency, and Fiscal Intermediary for guidance.

When the originating facility determines that the resident will not return to the evacuating facility, the provider will discharge the resident. The receiving facility will then admit the resident and the MDS cycle will begin as of the admission date. For questions related to this type of situation, providers should contact their State agency and their CMS Regional Office. (9/9/2005)

I-5. Will CMS consider suspending the collection of a CMP for a nursing home in Louisiana while they care for additional evacuees they have taken into their facility?

See also our answers in section E: "Enforcement." Based on the 1135(b) waiver, we will agree to suspend collection of a CMP. The suspension will be in effect until the waiver is lifted. Subsequently, we will request a financial impact statement from the specific facilities that owe us monies and do a case by case review to determine if any adjustments should be made. For additional information on enforcement activities, see Section E. (9/9/2005)

I-6. I am a Louisiana LTC provider with a pending termination date. The state has not been able to conduct a revisit to verify compliance. Will my provider number be terminated?

The regional office is monitoring LTC facilities with pending termination dates. If the state is unable to conduct a revisit to verify compliance prior to the termination date, the date will be extended to allow the state more time. This will be done on a case by case basis with notice being sent from the RO directly to the facility. (9/9/2005)

J. <u>Staffing</u>

J-1. **I want to volunteer my medical services but do not have a license to practice in a state affected by Hurricane Katrina. Can I still treat patients in the state?**

Each state directly affected by Hurricane Katrina has established public health emergency procedures. For example, Gov. Kathleen Babineaux Blanco has declared a public health state of emergency and waived the traditional licensure requirements so that physicians, nurses and other medical personnel licensed in other states can treat victims of Hurricane Katrina. For more details, please view Gov. Blanco's executive order at: http://www.gov.state.la.us/2005%20Executive%20orders/26PublicHealthEmergencyDeclaration.pdf. (9/8/2005)

J-2. Nurse aides are coming into states from the disaster area, as some corporate nursing homes are transferring residents and staff to sister facilities in other states. The nursing homes are not able to conduct criminal background checks or check references on these nurse aides. What should these nursing homes do to assure that they do not employ nurse aides found guilty of abusing, neglecting or mistreating residents by a court of law or have had a finding entered into the State nurse aide registry concerning abuse, neglect, mistreatment or residents or misappropriation of their property?

During this public health emergency, nursing homes must do the best that they can to assure that only nurse aides in good standing are working in the nursing homes accepting residents and staff from Louisiana. At a minimum, we would expect that the nursing homes employing the nurse aides coming from Louisiana to check with any nurse aide registry that the nursing home believes might contain information on the nurse aide. (Federal regulations do not require that nursing homes conduct a criminal background check before hiring a nurse aide; prior criminal background check may be a state requirement.) (9/92005)

J-3. We have had several questions related to licensure verification of health professional including physicians, nurses, and social workers. What should a prospective employer do if he/she cannot verify licensure with the appropriate board?

The 1135(b) waiver allows some flexibility that would apply in the public health emergency areas. We would expect providers to exercise due diligence, access whatever information is available, and ensure that the individual properly attests to their qualifications. The employer may request and contact past employers that may have verified the license and document the efforts. Also, the employer may obtain a signed affidavit from the prospective employee attesting that he or she is licensed. Maintain the affidavit while awaiting the Board resuming operations. (9/9/2005)